

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**JOHN ADAMS, #B89920,**

**Plaintiff,**

**V.**

**ANTHONY WILLS,  
MICHAEL MOLDENHAUER,  
and AMY LANG,**

**Defendants.**

**Case No. 22-cv-01853-SMY**

## ORDER

This matter is before the Court on a motion to set aside default filed by Defendants Anthony Wills and Amy Lang (Doc. 39). Waivers of service of summons were sent to Defendants Wills and Lang on April 25, 2023 (Doc. 23) and returned executed on May 26, 2023 (Docs. 24, 25). Their responsive pleadings were due on June 26, 2023 (*Id.*). However, Wills and Lang failed to move, answer, or otherwise plead in response to the Amended Complaint by that deadline. The Court directed the Clerk to enter default on July 19, 2023 (Doc. 36). Prior to the Clerk's entry of default, counsel for Wills and Lang filed a Notice of Appearance (Docs. 37, 38) and a motion to set aside default on July 19, 2023 (Doc. 39).

“A party seeking to vacate an entry of default prior to the entry of judgment must show: (1) good cause for the default; (2) quick action to correct it; and (3) a meritorious defense to the complaint.” *Cracco v. Vitran Express, Inc.*, 559 F.3d 625, 630–31 (7th Cir. 2009) (citations omitted); FED. R. CIV. P. 55(c). According to the motion to set aside default, Defendants Wills and Lang signed the waivers of service and emailed copies of them to the Office of the Illinois Attorney General on April 24, 2023 (Doc. 39). The Assistant Attorney General (AAG) assigned to the case missed the assignment because the incoming email was “buried among hundreds of

others.” When the oversight was discovered on July 19, 2023, the AAG took swift action to address the default by filing the instant motion, in which Wills and Lang assert that they have meritorious defenses to Plaintiff’s claims (*Id.* at 3-4).<sup>1</sup>

In light of the circumstances surrounding Defendants’ failure to file timely responsive pleadings and Counsel’s expeditious actions, the motion to set aside default (Doc. 39) is **GRANTED**. The Clerk’s entry of default (Doc. 40) is **VACATED**. Defendants Anthony Wills and Amy Lang shall file responsive pleadings within 7 days of the date of this Order.

**IT IS SO ORDERED.**

**DATED: July 25, 2023**

*s/ Staci M. Yandle*  
**STACI M. YANDLE**  
**United States District Judge**

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<sup>1</sup> While Defendants’ assertions of meritorious defenses are merely conclusory, the Court prefers that cases be adjudicated on the merits if possible.